

## UNITED STATES DISTRICT COURT

for the  
 SOUTHERN DISTRICT OF TEXAS  
 HOUSTON DIVISION

United States Courts  
 Southern District of Texas  
 FILED

APR 15 2020

David J. Bradley, Clerk of Court

SKYLER THOMAS RICE

Petitioner

v.

Case No.

(Supplied by Clerk of Court)

ED GONZALEZ - HARRIS COUNTY SHERIFF

Respondent

(name of warden or authorized person having custody of petitioner)

**PETITION FOR A WRIT OF HABEAS CORPUS UNDER 28 U.S.C. § 2241  
 OR 28 U.S.C. § 1331 IN THE ALTERNATIVE**

**Personal Information**

1. (a) Your full name: Skyler Thomas Rice
- (b) Other names you have used: \_\_\_\_\_
2. Place of confinement:
  - (a) Name of institution: Harris County Jail
  - (b) Address: 1200 Baker Street, Houston, TX 77002
  - (c) Your identification number: #01956417
3. Are you currently being held on orders by:
 

Federal authorities     State authorities     Other - explain: \_\_\_\_\_
4. Are you currently:
 

A pretrial detainee (waiting for trial on criminal charges)  
 Serving a sentence (incarceration, parole, probation, etc.) after having been convicted of a crime

If you are currently serving a sentence, provide:

  - (a) Name and location of court that sentenced you: \_\_\_\_\_
  - (b) Docket number of criminal case: \_\_\_\_\_
  - (c) Date of sentencing: \_\_\_\_\_

Being held on an immigration charge  
 Other (explain): \_\_\_\_\_

**Decision or Action You Are Challenging**

5. What are you challenging in this petition:
 

How your sentence is being carried out, calculated, or credited by prison or parole authorities (for example, revocation or calculation of good time credits)

Pretrial detention Immigration detention Detainer The validity of your conviction or sentence as imposed (for example, sentence beyond the statutory maximum or improperly calculated under the sentencing guidelines) Disciplinary proceedings Other (explain): \_\_\_\_\_

## 6. Provide more information about the decision or action you are challenging:

(a) Name and location of the agency or court: 338<sup>th</sup> Judicial District Court for Harris County Texas - 201 Caroline St, 12<sup>th</sup> Floor, Houston, TX 77002(b) Docket number, case number, or opinion number: Cause No. # 1580280

(c) Decision or action you are challenging (for disciplinary proceedings, specify the penalties imposed):

The Fact of my detention ;(d) Date of the decision or action: Apprx. 06/26/2019

## Your Earlier Challenges of the Decision or Action

## 7. First appeal

Did you appeal the decision, file a grievance, or seek an administrative remedy?

 Yes       No

(a) If "Yes," provide:

(1) Name of the authority, agency, or court: \_\_\_\_\_

(2) Date of filing: \_\_\_\_\_

(3) Docket number, case number, or opinion number: \_\_\_\_\_

(4) Result: \_\_\_\_\_

(5) Date of result: \_\_\_\_\_

(6) Issues raised: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_(b) If you answered "No," explain why you did not appeal: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

## 8. Second appeal

After the first appeal, did you file a second appeal to a higher authority, agency, or court?

 Yes       No

(a) If "Yes," provide:

(1) Name of the authority, agency, or court: \_\_\_\_\_

(2) Date of filing: \_\_\_\_\_

(3) Docket number, case number, or opinion number: \_\_\_\_\_

(4) Result: \_\_\_\_\_

(5) Date of result: \_\_\_\_\_

(6) Issues raised: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

(b) If you answered "No," explain why you did not file a second appeal: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

9.

### Third appeal

After the second appeal, did you file a third appeal to a higher authority, agency, or court?

Yes       No

(a) If "Yes," provide:

(1) Name of the authority, agency, or court: \_\_\_\_\_

(2) Date of filing: \_\_\_\_\_

(3) Docket number, case number, or opinion number: \_\_\_\_\_

(4) Result: \_\_\_\_\_

(5) Date of result: \_\_\_\_\_

(6) Issues raised: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

(b) If you answered "No," explain why you did not file a third appeal: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

10.

### Motion under 28 U.S.C. § 2255

In this petition, are you challenging the validity of your conviction or sentence as imposed?

Yes       No

If "Yes," answer the following:

(a) Have you already filed a motion under 28 U.S.C. § 2255 that challenged this conviction or sentence?

Yes       No

If "Yes," provide:

- (1) Name of court: \_\_\_\_\_
- (2) Case number: \_\_\_\_\_
- (3) Date of filing: \_\_\_\_\_
- (4) Result: \_\_\_\_\_
- (5) Date of result: \_\_\_\_\_
- (6) Issues raised: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

- (b) Have you ever filed a motion in a United States Court of Appeals under 28 U.S.C. § 2244(b)(3)(A), seeking permission to file a second or successive Section 2255 motion to challenge this conviction or sentence?

Yes       No

If "Yes," provide:

- (1) Name of court: \_\_\_\_\_
- (2) Case number: \_\_\_\_\_
- (3) Date of filing: \_\_\_\_\_
- (4) Result: \_\_\_\_\_
- (5) Date of result: \_\_\_\_\_
- (6) Issues raised: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

- (c) Explain why the remedy under 28 U.S.C. § 2255 is inadequate or ineffective to challenge your conviction or sentence: N/A

#### 11. Appeals of immigration proceedings

Does this case concern immigration proceedings?

Yes       No

If "Yes," provide:

- (a) Date you were taken into immigration custody: \_\_\_\_\_
- (b) Date of the removal or reinstatement order: \_\_\_\_\_
- (c) Did you file an appeal with the Board of Immigration Appeals?

Yes       No

If "Yes," provide:

- (1) Date of filing: \_\_\_\_\_
- (2) Case number: \_\_\_\_\_
- (3) Result: \_\_\_\_\_
- (4) Date of result: \_\_\_\_\_
- (5) Issues raised: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

(d) Did you appeal the decision to the United States Court of Appeals?

Yes  No

If "Yes," provide:

- (1) Name of court: \_\_\_\_\_
- (2) Date of filing: \_\_\_\_\_
- (3) Case number: \_\_\_\_\_
- (4) Result: \_\_\_\_\_
- (5) Date of result: \_\_\_\_\_
- (6) Issues raised: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

## 12. Other appeals

Other than the appeals you listed above, have you filed any other petition, application, or motion about the issues raised in this petition?

Yes  No

If "Yes," provide:

- (a) Kind of petition, motion, or application: Petition for Writ of Habeas Corpus
- (b) Name of the authority, agency, or court: 338<sup>th</sup> Judicial District Court for Harris County, Texas
- (c) Date of filing: April 6, 2020
- (d) Docket number, case number, or opinion number: \_\_\_\_\_
- (e) Result: No action - No Ruling - No Setting Ordered - No Hearing
- (f) Date of result: AS OF April 12, 2020
- (g) Issues raised: Dismissal, due to violation of Tex. Code Crim. P. 42A.751(d).

**Grounds for Your Challenge in This Petition**

13. State every ground (reason) that supports your claim that you are being held in violation of the Constitution, laws, or treaties of the United States. Attach additional pages if you have more than four grounds. State the facts supporting each ground. Any legal arguments must be submitted in a separate memorandum.

**GROUND ONE:** Detention

- (a) Supporting facts (*Be brief. Do not cite cases or law.*):

Danger detention poses to me by the COVID-19 pandemic, continued detention violates my Fifth and Eighth Amendment rights by exposing me to substantial risk of illness and death with my underlying health conditions,

- (b) Did you present Ground One in all appeals that were available to you?

Yes       No

**GROUND TWO:** \_\_\_\_\_

- (a) Supporting facts (*Be brief. Do not cite cases or law.*):

- (b) Did you present Ground Two in all appeals that were available to you?

Yes       No

**GROUND THREE:** \_\_\_\_\_

- (a) Supporting facts (*Be brief. Do not cite cases or law.*):

- (b) Did you present Ground Three in all appeals that were available to you?

Yes       No

**GROUND FOUR:**

(a) Supporting facts (*Be brief. Do not cite cases or law.*):

(b) Did you present Ground Four in all appeals that were available to you?

Yes       No

14. If there are any grounds that you did not present in all appeals that were available to you, explain why you did not:

**Request for Relief**

15. State exactly what you want the court to do: *Freedom from cruel treatment and conditions of confinement. Writ of Habeas Corpus, TRO requiring that Respondent release me on my own recognizance and refrain from re-detaining me for the pendency of my criminal proceedings. Emergency relief in either one of two forms; a writ of habeas corpus or an injunction ordering Defendants to immediately release Petitioner with appropriate precautionary public health measures.*

**Declaration Under Penalty Of Perjury**

If you are incarcerated, on what date did you place this petition in the prison mail system:

April 12, 2020

I declare under penalty of perjury that I am the petitioner, I have read this petition or had it read to me, and the information in this petition is true and correct. I understand that a false statement of a material fact may serve as the basis for prosecution for perjury.

Date: 4/12/2020

Skyler S. Rice

*Signature of Petitioner*

*Signature of Attorney or other authorized person, if any*